

AMENDED IN ASSEMBLY APRIL 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 632

Introduced by Assembly Member Davis

February 25, 2009

An act to add Section 1708.9 to the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 632, as amended, Davis. Internet-based social networking: privacy.

Existing law provides that a person is liable for constructive invasion of privacy when he or she attempts to capture, in a manner that is offensive to a reasonable person, any type of visual image, sound recording, or other physical impression of another person engaging in a personal or familial activity under circumstances in which that other person had a reasonable expectation of privacy, through the use of a visual or auditory enhancing device, regardless of whether there is a physical trespass, if this image, sound recording, or other physical impression could not have been achieved without a trespass unless the visual or auditory enhancing device was used.

This bill would require a social networking Internet Web site, as defined, to ~~prevent an image of a person that is posted on the Internet Web site by a user of the site from being copied or reproduced without the permission of the user who posted the image. The bill would also require the social networking Internet Web site~~ *provide a specified disclosure to a user, as defined, of the site regarding images uploaded to the social networking Internet Web site. The bill would also require the Internet Web site* to establish a mechanism for a user to flag an image that is posted on the *social networking Internet Web site* for

removal from the network when the image is of the ~~person~~ *user* requesting removal and the image is posted by another person on the other person's *page on the social networking Internet Web site* ~~on the network~~.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1708.9 is added to the Civil Code, to
2 read:

3 1708.9. (a) A social networking Internet Web site shall do
4 both of the following:

5 ~~(1) Prevent an image of a person that is posted on the Internet~~
6 ~~Web site by a user of the site from being copied or reproduced~~
7 ~~without the permission of the user who posted the image.~~

8 *(1) Provide a disclosure to users of the social networking*
9 *Internet Web site that an image, including, but not limited to, a*
10 *photograph, which is uploaded onto the social networking Internet*
11 *Web site may be copied by persons who view the image without*
12 *the consent of the user who initially uploads the image. The*
13 *disclosure shall be displayed on the Internet Web page to which*
14 *users of the site may upload images.*

15 (2) Establish a mechanism for a user to flag an image that is
16 posted on the *social networking Internet Web site* for removal
17 from the network when the image is that of the ~~person~~ *user*
18 requesting removal and the image is posted by another person on
19 the other person's *page on the social networking Internet Web site*
20 ~~on the network~~. *site. In order to verify the identity of a user who*
21 *is requesting that an image be flagged for removal pursuant to*
22 *this subdivision, the user shall provide the valid password or e-mail*
23 *address, or both, associated with the user's account, upon request*
24 *of the social networking Internet Web site.*

25 (b) (1) For purposes of this section, "social networking Internet
26 Web site" means a service that allows individuals to construct a
27 public or semipublic profile within a bounded system, articulate
28 a list of other users with whom they share an Internet Web site
29 connection, and view and traverse their list of connections and
30 those made by others within the system.

1 (2) *For purposes of this section, “user” means a person*
2 *registered with the social networking Internet Web site as a*
3 *member, and the parent or guardian of the user if the user is*
4 *registered as a minor.*

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